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AGENDA ITEM #
96

fax

COPY TO WENDY

t r a n s m i t t a l

to: COUNCIL MEMBERS AND STAFF

fax:

from: PHIL PARKER

date: 12-14-05

re: C14-05-0034. SH PEACEFUL HILL SUBDIVISION

pages: 2, including this cover sheet

NOTES: AT CITY COUNCIL'S DIRECTION, NP2
FACILITATED A MEETING BETWEEN MAINSTREET
HOMES AND CONCERNED NEIGHBORS IN OUR AREA.
MAINSTREET WAS TO CONTACT US WITH IDEAS
AND OR PROPOSALS TO TRY TO MEDIATE THE
SITUATION. TO MY KNOWLEDGE, NONE OF US
HAVE BEEN CONTACTED WITH LITTLE MORE THAN
24 HOURS LEFT BEFORE COUNCIL MEETING. PLEASE
CONSIDER SERIOUSLY OUR REQUEST FOR DENIAL OF
ZONING BASED ON THE MERITS OF THIS CASE,
AND MAINSTREET'S BLATANT DISREGARD FOR
THE CITY'S PROCEDURAL RULES AND COUNCIL'S DIRECTION
ON FOLLOW UP ISSUES.

THANK YOU, PHIL PARKER

Ms. Wendy Walsh
NPZD
P.O. Box 1088
Austin, Texas 78767-1088

December 10, 2005

Dear Ms. Walsh,

REF: Peaceful Hill Zoning Case C14-05-0034.SH

On December 15, 2005, City Council will choose on third reading to deny or approve this case. As an affected neighborhood, the following facts should be considered. Under current guidelines of zoning, this case has no merit. If a SMART Housing designation is to be used to determine the outcome, it should be pointed out that this site doesn't meet the standards of SMART Housing. Any attempt to tie this zoning request to SMART Housing is abusing the intent of Austin's nationally accredited program.

"Zoning: The method used by cities to promote the compatibility of land uses by dividing tracts of land within the city into different districts or zones. Zoning ensures that a factory is not located in the middle of a residential neighborhood or that a bar is not located next to an elementary school." City of Austin Neighborhood Planning Glossary. "As part of the zoning process, appropriate land uses for an area are identified based on such factors as the intensity, density, height of a proposed project, surrounding land uses, traffic impacts and access to a site, environmental concerns and overall compatibility." Ref: City of Austin Zoning guidelines.

Would you support this residential zoning if the SMART Housing designation weren't attached? Absolutely not! You would site incompatible usage and follow the recommendations of City staff and ZAP.

Would you support LI zoning in a residential neighborhood? If not, why would you allow a residential subdivision in an industrial neighborhood? In this neighborhood, a 50' strip of CS zoning and a 35' strip of SF6 zoning has been used to buffer LI zoned properties from residential properties across the street, as is required by City guidelines. The function of the ZAP Commission and City staff is being neutered by SMART Housing's support of this project. Down zoning and gentrification have created political potholes over the years throughout other parts of Austin. In past cases when this type of incompatible use was requested they have been denied.

Most zoning in this area with the exception of Parkridge Subdivision, southwest of this area, is zoned CS, W/O, DR or LI. In fact ZAP placed a covenant prohibiting residential use directly across the street from this site last year citing "Intense Industrial uses" on adjacent properties. This also includes properties being used by APD/AFD/EMS and the City of Austin. Any logical neighborhood plan would restrict residential development to west of Peaceful Hill and plan for further commercial development to the east. There are several developers interested in this tract for commercial development, thereby creating property tax revenues.

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This proposed S.M.A.R.T. Housing project does not meet guidelines adopted by the City. If City Council supports this application it is setting a dangerous precedent. Citizens rely on Council and City staffs to insure bond monies are spent on the beneficial projects for which they were intended.

- **"SAFE"** - SMART Housing contends only that Safe refers the proximity to potentially hazardous material uses on adjacent industrial properties. This is a critical issue but only a part of what SAFE means to a neighborhood. They neglect to describe other criterion for SAFE. Safe refers to instances of creating more sidewalks and stop signs in communities to make it convenient and safe for children walking to school. Safe is relative to the environment influences in the surrounding neighborhoods, not just the hazardous chemicals. Safe refers to security i.e. streetlights and well-lit roads. There are no sidewalks or lighted streets, only bar ditches and narrow substandard feeder roads. Pedestrian, bicycle and wheelchair egress to retail stores and schools is not safe and there are no plans to correct these issues as it would require the City to purchase right-of-ways prior to making improvements. In fact there will be no park, no swimming pool, no community center and there are no other amenities proposed or nearby.
- **Mixed Income:** City of Austin Smart Housing audit, May 2002 states, "Projects are not evaluated for compliance with any specified mixed-income criterion."
- **Accessibility and visitability:** Although this refers to the construction of homes with consideration for people with disabilities, sub-standard roads and the lack of sidewalks would create a hardship for elderly and those with physical impediments. Current road infrastructure and excessive distances would prevent wheelchair access to local services and isolate those unable to operate a motor vehicle, effectively creating a prison without walls.
- **Reasonably Priced:** Smart Housing audit, May 2002 states "Not all SMART Housing units meet the criterion for affordability, i.e. the household spends no more than 30% of income on housing."
- **"Transit-Oriented:** Emphasizes alternative forms of transportation other than the automobile - such as walking, cycling, and mass transit - as part of its design." Ref: Neighborhood Planning Glossary, City of Austin. This project fails to meet the transit-oriented criterion set out for SMART Housing. Bus stops within the required ¼ mile are not in place and Council has not been provided a Capital Metro transit proposal that meets the requirements. Pedestrian and vehicular traffic use on current sub-standard secondary feeder roads is dangerous and the City has no plans to upgrade. There have been 2 traffic deaths in separate incidents in front of this site in the last few years. The SMART Housing Initiative requires that housing developed under the program have ready access to transit. The SMART Housing audit issued May, 2002 states "Compliance with the transit orientation specification is assured only in the event a transit stop is already located within 1,000' of the development."
- **Notification violation:** In the City of Austin publication, revised 2005, SMART Housing Policy Resource Guide, page 16, Item 7. Other requirements, Viable Land within City Limits: "If zoning is not in place, the applicant must contact registered neighborhood associations and address neighborhood concerns prior to filing a zoning application." In contacting applicable neighborhood associations, evidence shows that there was **NO CONTACT** by any representative or agent of neither Main Street Homes nor SMART Housing prior to filing of the zoning application. Smart Housing Staff certified this application, allowing fee waiver for the zoning change and citing outstanding staff and neighborhood concerns. There is no provision authorizing SMART Housing to waive the rules or fees until conditions of the application have been met. Staff concerns should have been enough to curtail this project. Smart Housing does not

represent these existing neighborhoods. Main Street and Smart Housing should have met with existing neighborhoods prior to the zoning application.

- **Valid Petition:** It should be reminded that a valid and growing petition exists and the Planning Commission has recommended denial of this zoning request. The property owners and the Planning Commission are in agreement. The petition is still growing. If not for absentee owners and deed technicalities, all the residents and businesses surrounding this site would have joined the petition. We, in fact, speak with one voice. Ironically, the people who signed the valid petition, citizens, voters and taxpayers, are the only ones that have followed rules and procedures pertaining to this zoning request.

"The protest provisions contained in S25-2-284 are commonly referred to as "petition rights." This provision generally provides that when the Planning Commission has recommended approval of a request for rezoning to a planned unit development (PUD) district, or when a written protest against a proposed rezoning, signed by 20% or more of either the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same and extending 200 feet there from, such rezoning shall not become effective except by the favorable vote of three-fourths of all members of the Council." Obviously and wisely, ZAP did not recommend approval of this request.

- **Meeting with the neighborhoods:** Finally, on November 30th, 2005, at the direction of City Council, City staff arranged a meeting with staff, Main Street Homes and the Immediate neighborhood. Staff and Main Street Homes listened to neighborhood concerns.
- **The validity of the traffic count was challenged and staff agreed to investigate the possibility of having the City conduct a proper study.**
- **As there is an ongoing problem related to the poorly planned run-off system from the Parkridge Subdivision which floods neighboring lands, residents to the south have legitimate fears that this proposed subdivision will cause flooding on their property.**

Industrial site business owners identified a multitude of concerns:

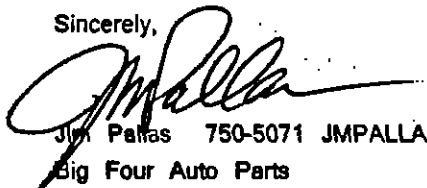
- **In stating that they conduct hazardous activities, i.e. car crushing, metal fabrication, wrecker operations, fiberglass and other composite manufacturing, they have built fences to deter unauthorized entry to their properties. Liability insurance is already too expensive and building houses adjacent to these sites promotes excessive risk exposure, driving up costs. It is also likely that homes adjacent to these locations will be required to have additional riders for their homeowners insurance.**
- **Setbacks associated with industrial uses, which abut residential uses, will prevent existing owners from further development and improvements to their properties, as portions of their land are virtually rendered useless. Appropriate zoning on some of these properties will be prohibited by the City's own guidelines for incompatible use. Currently there are 2 applications for LI zoning "On hold" pending the outcome of this application. Zoning has advised these applicants that if residential zoning is approved, staff will only recommend CS zoning, which would be non-conforming usage.**
- **Topography in this area prevents proper screening. Residents and workers would have unobstructed views of each other regardless of the height of any proposed walls or screening.**

- Noise related to conduct of existing businesses would be at the very least annoying. Some of the industrial sites are 24-hour facilities. Air compressors, wreckers, diesel engines, hydraulic machinery, car-crushing equipment and back-up alarms are some of the noise-producers, which will disrupt the peaceful serenity of an otherwise quiet home.

In fact, neighborhood businessmen feel that approval of this zoning is tantamount to signing a death sentence for their businesses, which have existed in their current locations for 25 years or more. They have invested millions of dollars in their businesses, not to mention the monies paid into property taxes, employee taxes and sales tax revenues generated for State and local government. One of these businesses provides ACC and AFD with vehicles, location and cleanup for extraction training at no cost to tax payers, helping to save lives, and representing savings of over \$500,000.00 per year.

A fence, a sound barrier, a left turn lane and a covenant do not make this a worthwhile project. Why create a problem for which there is no fix? Basic zoning principles identify this as incompatible use. This is a zoning issue, not a SMART Housing issue, which if wrongly approved will create hardships for the existing residents and business as well as the SMART home buyers.

Sincerely,



Jim Pallas 750-5071 JMPALLAS@AOL.COM
Big Four Auto Parts

CC: Mayor Will Wynn; Council Member Lee Leffingwell; Council Member Betty Dunkerley; Council Member Brewster McCracken; Council Member Raul Alvarez; Mayor Pro Tem Danny Thomas; Council Member Jennifer Kim; Andy Mormon, COA; Sandra Frazer, COA; Veronica Briseno, COA; Dina Haines, COA; Rich Bailey, COA; Thelma Villarreal, COA; Heidi Gerbracht, COA; City Manager, Toby Futrell; Asst. City Manager, Laura Huffman; City Auditor, Steve Morgan; James Keith, News 8 Austin; Paul Hilgers, NHCD; Gina Copic, NHCD; Steve Barney, NHCD; Stuart Hersh, NHCD; Alice Glasco, NPZD; Joe Pantallon, NPZD; Wendy Walsh, NPZD; City Attorney, David Smith; 7 On Your Side, Fox 7 News; Ray Bonilla, Ray, Wood & Bonilla, L.L.P.; Alexander Tradd, Attorney at Law; Gerardo Lopez, KXAN - News; Shelton Green, KVUE - News; Jennie Blankenship, KEYE TV - News; Michael King, Austin Chronicle; Jenni Lee, Fox 7 News; Joyce Lauck, Family Elder Care; Susana Almenza, PODER; Betty Edgemond, Far South Austin Community Assn.; Sharon Colson, Beacon Ridge Neighborhood Assn.; Len Layne, Terrell Lane Interceptor Assn.; Jennee Galland, Barton Springs/Edwards Aquifer Conservation District; Laura Morrison, Austin Neighborhoods Council; John McNabb, Onion Creek Homeowners Assn.; Daniel Robertson, AISD; Rene Lara, Park Ridge Owners Assn.; Sarah Ravenecraft, South by Southeast Neighborhood Org.; Roy Ribelln, Industrial Composites; Mickey Rich, Rich Enterprises; Phil Parker, Crippen Sheet Metal; Linda Chemey; Pat Nelker; Carl Rushing

PETITION

Date: April 20, 2005

File Number: C14-05-0034.SH

Address of 308 Ralph Ablanado Drive
Rezoning Request: 8319 Peaceful Hill Lane

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than LO, LR, CS, W/LO, LI, GO, GR, or NO.

- The parcel at 8602 Cullen Ln. is zoned CS which by the city's definition is considered "generally incompatible with residential environments."
- The parcel at 220 Ralph Ablanado Dr. is ^{pending} zoned LI and is presently used as a vehicle crushing facility and storage site thus making it incompatible with residential environments.
- Parcels at 8505 Peaceful Hill Ln, 130 Ralph Ablanado Dr. are also designated as LI or LI-CO and would additionally not be suited to residential environments.

Donna Wilds 8207 Peaceful Hill Ln.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

| Signature | Printed Name | Address |
|------------------------|---|-------------------------------------|
| <i>Curtis Fitzer</i> | CURTIS FITZER | 8504 Peaceful Hill Ln. |
| <i>Jim Pallas</i> | JIM PALLAS | 8601 Cullen Ln (221 Ralph Ablanado) |
| <i>Jim Pallas</i> | JIM PALLAS | 8602 Cullen Ln |
| <i>Jim Pallas</i> | JIM PALLAS | 220 RALPH ABLANADO |
| <i>Roy Ribelin</i> | ROY RIBELIN | 8505 Peaceful Hill Ln. |
| <i>Mickey Rich</i> | MIKEY RICH | 130 Ralph Ablanado |
| <i>Jimmy Crippen</i> | JIMMY CRIPPEN | 8501 PEACEFUL HILL LN. |
| <i>Donna F. Adams</i> | DONNA F. ADAMS | 8506 Peaceful Hill Ln. |
| <i>Carl Rushing</i> | CARL RUSHING | 8300 PEACEFUL HILL LN |
| <i>Henry A. Hubach</i> | HENRY A. HUBACH | 501 HUBACH LANE |
| <i>Henry H. Valls</i> | HENRY H. VALLS | 8204 Peaceful Hill Ln. |
| <i>Buddy F. Short</i> | BUDY F. SHORT | 8400 Peaceful Hill Lane |
| <i>Linda Cherney</i> | LINDA CHERNEY | 8410A PEACEFUL HILL LN. |
| <i>Patricia Nelker</i> | PATRICIA NELKER | 8306 Peaceful Hill Ln. |
| <i>Chris Cleaman</i> | CHRIS CLEAMAN | 203 Ralph Ablanado |
| <i>Katherine Alt</i> | KATHERINE ALT | 400 BALDRIDGE DR |
| <i>John F. Taylor</i> | JOHN F. TAYLOR | 8201 Peaceful Hill Ln. |
| Date: _____ | Contact Name: <u>Jennifer Stapleton</u> | |
| | Phone Number: <u>(512) 731-7731</u> | |

Dennis Strickland
Dennis Strickland 401 Baldridge

Lila Wilds
Lila Wilds 8207 Peaceful Hill Ln.
Michelle
Michelle 8207 Peaceful Hill Ln.

11-23-01
11-23-01
Midline Tech

FAX MEMO

**Ms. Wendy Walsh,
Watershed Protection & Development Review
Department**

December 14, 2005

I am faxing you a copy of the updated petition.

The two additions to the original petition are:

Ms. Wilds, 8297 Peaceful Hill Lane, new owner, northwest boundary adjacent to proposed zoning case.

Curtis Figer, 8504 Peaceful Hill which is across the street from Crippen's.

Please call me if I must bring in the signed version. I will bring it to you.

Thank you for your assistance. I feel the entire city staff has been very helpful in providing information that we have requested.

Jim Pallas, 750-5071 or jmpallas@aol.com